

2450 D73

KANSAS, UTAH, AND THE DRED SCOTT DECISION.

REMARKS OF

HON. STEPHEN A. DOUGLASS.

Delivered in the State House at Springfield, Illinois, on 12th of June, 1857.

MR. PRESIDENT, LADIES AND GENTLEMEN:—I appear before you to-night, at the request of the Grand Jury in attendance upon the U. S. Court, for the purpose of submitting my views upon certain topics upon which they have expressed a desire to hear my opinion. It was not my purpose when I arrived among you to have engaged in any public or political discussion; but when called upon by a body of gentlemen so intelligent and respectable, coming from all parts of the State, and connected with the administration of public justice, I do not feel at liberty to withhold a full and frank expression of my opinion upon the subjects to which they have referred, and which now engross so large a share of the public attention.

The points which I am requested to discuss are—

1st. The present condition and prospects of Kansas.

2d. The principles affirmed by the Supreme Court of the United States in the Dred Scott case.

3d. The condition of things in Utah, and the appropriate remedies for existing evils.

Of the Kansas question but little need be said at the present time. You are familiar with the history of the question, and my connection with it. Subsequent reflection has strengthened and confirmed my convictions in the soundness of the principles on which I acted, and the correctness of the course I have felt it my duty to pursue upon that subject. Kansas is about to speak for herself through her delegates assembled in convention to form a constitution, preparatory to her admission into the Union on an equal footing with the original States. Peace and prosperity now prevail throughout her borders. The law under which her delegates are about to be elected is believed to be just and fair in all its objects and provisions. There is every reason to hope and believe that the law will be fairly interpreted and impartially executed, so as to insure to every *bona fide* inhabitant the free and quiet exercise of the elective franchise. If any portion of the inhabitants, acting under the advice of political leaders in distant States, shall choose to absent themselves from the polls, and withhold their votes, with a view of leaving the Free State Democrats in a minority, and thus securing a pro-slavery constitution in opposition to the wishes of a majority of the people living under it, let the responsibility rest on those who, for partizan purposes, will sacrifice the principles they profess to cherish and promote. Upon them and upon the political party for whose benefit, and under the direction of whose leaders, they act, let the blame be visited for fastening upon the people of a new State, institutions repugnant to their feelings and in violation of their wishes. The organic act secures to the people of Kansas the sole and exclusive right of forming and regulating their domestic institutions to suit themselves, subject to no other limitation than that which the constitution of the United States imposes. The Democratic party is determined to see the great fundamental principles of the organic act carried out in good faith. The present election law in Kansas is acknowledged to be fair and just—the rights of the voters are clearly defined—and the exercise of those rights will be efficiently and scrupulously protected. Hence, if the majority of the people of Kansas desire to have it a free State, (and we are told by the Republican party that nine-tenths of the people of that territory are Free State men,) there is no obstacle in the way of bringing Kansas into the Union as a Free State, by the votes and voice of her own people, and in conformity with the great principles of the Kansas-Nebraska act—provided all the Free State men will go to the polls, and vote their principles in accordance with their professions. If such is not the result let the consequences be visited upon the heads of those whose policy it is to produce strife, anarchy and bloodshed in Kansas, that their party may profit by slavery agitation in the Northern States of this Union. That the Democrats in Kansas will perform their duty, fearlessly and nobly, according to the principles they cherish, I have no doubt, and that the result of the struggle will be such as will gladden the heart and strengthen the hopes of every friend of the Union, I have entire confidence.

The Kansas question being settled peacefully and satisfactorily, in accordance with the wishes of her own people, slavery agitation should be banished from the halls of Congress and cease to be an exciting element in our political struggles. Give fair play to that principle of self government which recognizes the right of the people of each State and Territory to form and regulate their own domestic institutions, and

sectional strife will be forced to give place to that fraternal feeling which animated the fathers of the revolution, and made every citizen of every State of this glorious confederacy a member of a common brotherhood.

That we are steadily and rapidly approaching that result, I can not doubt, for the slavery issue has already dwindled down into the narrow limits covered by the decision of the Supreme Court of the United States in the Dred Scott case. The moment that decision was pronounced, and before the opinions of the Court could be published and read by the people, the newspaper press in the interest of a powerful political party in this country, began to pour forth torrents of abuse and misrepresentations, not only upon the decision, but upon the character and motives of the venerable chief justice and his illustrious associates on the bench. The character of Chief Justice Taney and associate judges who concurred with him require no eulogy—no vindication from me. They are endeared to the people of the United States by their eminent public services—venerated for their great learning, wisdom and experience—and beloved for the spotless purity of their characters and their exemplary lives. The poisonous shafts of partisan malice will fall harmless at their feet, while their judicial decisions will stand in all future time, a proud monument to their greatness, the admiration of the good and wise, and a rebuke to the partisans of faction and lawless violence. If, unfortunately, any considerable portion of the people of the United States shall so far forget their obligations to society as to allow the partisan leaders to array them in violent resistance to the final decision of the highest judicial tribunal on earth, it will become the duty of all the friends of order and constitutional government, without reference to past political differences, to organize themselves and marshal their forces under the glorious banner of the Union, in vindication of the constitution and the supremacy of the laws over the advocates of faction and the champions of violence. To preserve the constitution inviolate, and vindicate the supremacy of the laws, is the first and highest duty of every citizen of a free republic. The peculiar merit of our form of government over all others consists in the fact that the law, instead of the arbitrary will of a hereditary prince, prescribes, defines and protects all our rights. In this country the law is the will of the people, embodied and expressed according to the forms of the constitution. The courts are tribunals prescribed by the constitution, and created by the authority of the people to determine, expound and enforce the law. Hence, whoever resists the final decision of the highest judicial tribunal, aims a deadly blow at our whole republican system of government—a blow, which if successful, would place all our rights and liberties at the mercy of passion, anarchy and violence. I repeat, therefore, that if resistance to the decisions of the supreme court of the United States, in a matter like the points decided in the Dred Scott case, clearly within their jurisdiction as defined by the constitution, shall be forced upon the country as a political issue, it will become a distinct and naked issue between the friends and the enemies of the constitution—the friends and the enemies of the supremacy of the laws.

The case of Dred Scott was an action of trespass *vi et armis*, in the Circuit Court of the United States for the district of Missouri, for the purpose of establishing his claim to be a free man, and was taken by a writ of error on the application of Scott to the Supreme Court of the United States, where the final decision was pronounced by Chief Justice Taney. The facts of the case were agreed upon and admitted to be true by both parties, and were in substance, that Dred Scott was a negro slave in Missouri; that he went with his master, who was an officer of the army, to Fort Armstrong, on Rock Island; and thence to Fort Snelling, on the west bank of the Mississippi river and within the country covered by the act of Congress known as the Missouri compromise; and thence he reaccompanied his master to the State of Missouri, where he has since remained a slave. Upon this statement of facts two important and material questions arose, besides several incidental and minor ones, which it was incumbent upon the court to take notice of and decide. The Court did not attempt to avoid responsibility by disposing of the case upon technical points without touching the merits, nor did they go out of their way to decide questions not properly before them and directly presented by the record. Like honest and conscientious judges, as they are, they met and decided each point as it arose, and faithfully performed their whole duty and nothing but their duty to the country by determining all the questions in the case, and nothing but what was essential to the decision of the case upon its merits. The State courts of Missouri had decided against Dred Scott, and declared him and his children slaves, and the Circuit Court of the United States for the district of Missouri had decided the same thing in this very case, which had thus been removed to the Supreme Court of the United States by Scott, with the hope of reversing the decision of the Circuit Court and securing his freedom. If the Supreme Court had dismissed the writ of error for want of jurisdiction, without first examining into and deciding the merits of the case, as they are now denounced and abused for not having done, the result would have been to remand Dred Scott and his children to perpetual slavery under the decisions which had already been pronounced by the Supreme Court of Missouri, as well as by the Circuit Court of the United States, without obtaining a decision on the merits of his case by the Supreme Court of the United States. Suppose Chief Justice Taney and his associates had thus remanded Dred Scott and his children back to slavery on a plea in abatement or any mere technical point not touching the merits of the question, and without deciding whether under the constitu-

tion and laws, as applied to the facts of the case, Dred Scott was a free man or a slave, would they not have been denounced with increased virulence and bitterness, on the charge of having remanded Dred Scott to perpetual slavery without first examining the merits of his case and ascertaining whether he was a slave or not?

If the case had been disposed of in that way, who can doubt that such would have been the character of the denunciations which would have been hurled upon the heads of those illustrious judges, with much more plausibility and show of fairness than they are now denounced for having decided the case fairly and honestly upon its merits?

The material and controlling points in the case—those which have been made the subject of unmeasured abuse and denunciation, may be thus stated:

1st. The Court decided that under the constitution of the United States, a negro descended from slave parents is not and cannot be a citizen of the United States.

2d. That the act of the 6th of March, 1820, commonly called the Missouri compromise act, was unconstitutional and void before it was repealed by the Nebraska act, and consequently did not and could not have the legal effect of extinguishing a master's right to his slave in that territory. While the right continues in full force under the guarantees of the constitution, and can not be divested or alienated by an act of Congress, it necessarily remains a barren and a worthless right, unless sustained, protected and enforced by appropriate police regulations and local legislation, prescribing adequate remedies for its violation. These regulations and remedies must necessarily depend entirely upon the will and wishes of the people of the territory as they can only be prescribed by the local legislatures. Hence the great principle of popular sovereignty and self-government is sustained and firmly established by the authority of this decision. Thus it appears that the only sin involved in the passage of the Kansas-Nebraska act, consists in the fact that it removed from the statute book an act of Congress which was unauthorized by the constitution of the United States, and void because passed without constitutional authority, and substituted in lieu of it that great fundamental principle of self-government which recognizes the right of the people of each State and Territory to form and regulate their domestic institutions and internal affairs to suit themselves, in accordance with the constitution. [Applause.] The wisdom and propriety of the measure have been sustained by the decision of the highest judicial tribunal on earth, and ratified and approved by the voice of the American people in the election of JAMES BUCHANAN to the presidency of the United States upon that naked and distinct issue. I am willing to rest the vindication of the measure and my action in connection with it upon that decision and that verdict of the American people. [Immense applause.]

Passing from this, I will proceed to the discussion of the main proposition decided by the court, which is, that under the constitution of the United States a negro descended from slave parents imported from African is not and can not be a citizen of the United States.

We are told by the leaders of the Republican or Abolition party that this proposition is cruel, inhuman and infamous, and should not be respected nor obeyed by any good citizen. In what does the objection consist? Wherein is the cruelty, the inhumanity, the infamy? It is supposed to consist in depriving the negro of citizenship, and consequently excluding him from the exercise of those rights and privileges which are enjoyed in common, and on terms of entire equality, by all American citizens, whether native-born or naturalized. They quote the Declaration of Independence which says: "*We hold these truths to be self-evident, that all men were CREATED EQUAL,*" and insist that this language referred to and was intended to include negroes as well as white men; that it was not intended to apply only to the white race, but that it included the negroes and all other inferior races, and placed them on a footing of entire and absolute equality with white men, and that the battles of the revolution were fought in defense of the principle and the foundations of this glorious republic were firmly planted on the immovable basis of the perfect equality of the races. Hence they argue that any law or regulation, whether under the authority of the State governments or that of the United States, in violation of this fundamental principle of negro equality with white men, is not only cruel, inhuman and infamous, but is subversive of the foundations of the government itself, and therefore ought not to be respected or obeyed by any good citizen. If we grant the truth of the premises it would be in vain to resist the force of their reasoning or the correctness of their conclusions. Indeed, we would be compelled, as honest men, to acknowledge and adopt the principle and carry it out in good faith in all our political action, by modifying or repealing any legal and constitutional provision in conflict with that principle. Let us examine and see what changes this principle would require in the constitution and laws of this State as well as of the United States.—Of course it would instantly emancipate and set at liberty every slave in any State of this Union, and in every other place under the American flag, and within the jurisdiction of the federal constitution. Slavery being thus abolished, the same principle would compel us to strike from the constitution of Illinois the clause which denies to a negro, whether free or slave, the right to come and live among us, and in lieu of it to open the door for the free influx of emancipated slaves to enter and become citizens on an equality with ourselves. THE SAME PRINCIPLE would compel us to strike the word "white" out of

our constitution, and allow the negro to vote on an equality with white men—and of course outvote us at the polls when they became a majority. The same principle would compel us to change the constitution so as to render a negro eligible to the Legislature, to the bench, to the governorship, to Congress, to the Presidency, and to all other places of honor, profit or trust, on an equal footing with white men.—When all these things shall have been done, and the principle of negro equality shall have been fully carried out to this extent, still the requirements of the Declaration of Independence will not have been satisfied, if it really means what the Republican or Abolition party assert it does mean in declaring that a negro was created by the Almighty equal to a white man. If their interpretation of the Declaration of Independence be correct, and the principle of negro equality be true, as supposed by the opponents of the Dred Scott decision we shall certainly be compelled, as conscientious and just men, to go one step further—repeat all laws making any distinction whatever on account of race and color, and authorize negroes to marry white women on an equality with white men. [Immense cheering.]

When the Republican or Abolition party shall have done all these things and thus have carried into practical operation the Declaration of Independence as they understand it, they will have laid the foundation for their organized opposition to so much of the decision of the Dred Scott case as declares that a negro is not a citizen of the United States. [Great applause.]

If on the contrary the opponents of the Dred Scott decision shall refuse to carry out their views of the Declaration of Independence and negro citizenship, by conferring upon the African race all the rights, privileges and immunities of citizenship the same as they are now or should be enjoyed by the white, how will they vindicate the integrity of their motives and the sincerity of their profession? If the negro is the equal of the white man and was thus created by the Almighty, what right have they or we to reduce him to a condition of inequality, by denying to him the privilege of voting, holding office, marrying the woman of his choice, in short, withholding from him all political rights and consigning him to political slavery? Perceiving the inconsistency between their professions and their past action on this point, the leaders of the Republican or Abolition party in the legislature of New York, and some of the New England States, and indeed, in Wisconsin and such other States as they think public sentiment is prepared for the measure, have recently taken the preliminary steps to amend the Constitution of their respective States so as to allow negroes to vote and hold office, and enjoy all the rights and privileges of citizenship on an equal footing with white men. These movements have been initiated in those states and will soon follow others, upon the ground that the Republican party was bound and pledged by its creed and its professions, so proclaimed from the pulpit, from the stump, and through the newspaper press, to carry out the Declaration of Independence as they profess to understand it, by placing the negro on an equality with the white men in all those States where they carried the presidential election last fall, and secured the absolute control of all the departments of the State government. It is not to be presumed that any step for changing the Constitution of Illinois so as to confer the rights and privileges of citizenship upon negroes will be taken until after the next election, nor will any such purpose be openly avowed, but, on the contrary, in the central and southern portions of the State it will be stoutly denied, at the same time that all their orators, lecturers, and papers will continue to quote the Declaration of Independence to prove that the Almighty created a negro equal to a white man, and consequently he has a divine right to enjoy all the rights and privileges of the white man, and that all human laws in conflict with that divine right must yield and give place to the "higher law." The time has not arrived when it is deemed prudent by the leaders of the Republican party in this state to make a frank and honest confession of faith and proclaim it to the world in tones that can be heard and language that can be understood to mean the same thing in all portions of the State. But so long as they quote the Declaration of Independence to prove that a negro was created equal to a white man, we have no excuse for closing our eyes and professing ignorance of what they intend to do, so soon as they get the power.

To show how shallow is the pretense that the Declaration of Independence had reference to, or included the negro race when it declared all men created equal, it is only necessary to refer to a few historical facts, recorded in our school books and familiar to our children.

On the 4th of July, 1776, when the Declaration of Independence was promulgated to the world, African slavery existed in each one of the thirteen colonies. Every signer of the Declaration of Independence was elected by, and represented a slaveholding constituency. Every battle of the revolution, from Lexington and Bunker Hill to King's Mountain and Yorktown, was fought in a slaveholding state.

The treaty of peace acknowledging and confirming the independence of the United States was made and signed on behalf of Great Britain of the one part and of the thirteen slaveholding states on the other.

The constitution of the United States under which we now live so happily and have grown so great and powerful, and which we all profess to cherish and venerate, was formed, adopted and put into operation by the people of the twelve slaveholding states and one free state, slavery having disappeared from Massachusetts about that time under the operation of the great fundamental principle of self-government, which recognizes the right of each state and colony to regulate its own domestic and local affairs.

In view of these incontrovertible facts, can any sane man believe that the signers of the declaration of

independence, and the heroes who fought the battles of the revolution, and the sages who laid the foundation of our complex system of federal and state government, intended to place the negro race on an equal footing with the white race? If such had been their purpose, would they not have abolished slavery and converted every negro into a citizen on the day on which they put forth the Declaration of Independence? Did they do it? Did any of the thirteen States abolish slavery—much less place the negro on an equality with the white man during the whole revolutionary struggle? History records the emphatic answer. No. Not one of the original States abolished slavery during the revolution, nor has any of them, at any time since extended to the African race all the rights and privileges of citizenship on terms of entire equality with the white man.

No one can vindicate the character, motive and conduct of the signers of the Declaration of Independence, except upon the hypothesis that they referred to the white race alone, and not to the African, when they declared men to have been created free and equal—that they were speaking of British subjects on the continent being equal to British subjects born and residing in great Britain—that they were entitled to the same inalienable rights, and among them were enumerated life, liberty and the pursuit of happiness. The declaration was adopted for the purpose of justifying the colonists in the eyes of the civilized world in withdrawing their allegiance from the British crown, and dissolving their connection with the British country. In this point of view the Declaration of Independence is in perfect harmony with all the events of the revolution, and the line of policy pursued under the article of confederation, and the principles embodied and established in the federal constitution. The history of the times clearly shows that the negroes were regarded as an inferior race, who in all ages, and in every part of the globe, and in the most favorable circumstances, had shown themselves incapable of self government, and consequently under the protection of those who are capable of providing for and protecting them in the exercise of all the rights they were capable of enjoying consistent with the good and safety of society. It is on this principle that in all civilized and christian countries the government provides for the protection of the insane, the lunatic, the idiotic, and all other unfortunates who are incompetent to take care of themselves. It does not follow by any means that because the negro race are incapable of governing themselves that therefore they should become slaves and be treated as such. The safe rule upon that subject, I apprehend to be this, that the African race should be allowed to exercise all the rights and privileges which they are capable of enjoying consistent with the welfare of the community in which they reside, and that under our form of government the people of each State and Territory must be allowed to determine for themselves the nature and extent of those privileges. [Applause.]

The whole history of our country clearly shows that our fathers acted on this principle, not only in promulgation of the Declaration of independence, but in laying the foundations and erecting the superstructure of our complex system of federal and State government. Whoever will take the pains to examine the journals of the Continental Congress, would find that nearly every colony before it will authorize its delegates to assent to a Declaration of Independence, placed on record an express condition, reserving to itself the sole and exclusive right of regulating its own internal affairs and domestic concerns, and local police, without the interference of general congress, or of any other State or colony. The battles of the revolution were all fought in defense of this principle, and the constitution of the United States was formed and adopted for the purpose of perpetuating it in all time to come; at the same time it combined all the people of the Union in one confederacy with certain specified and limited powers for the common defense and general welfare.

Under this form of government the rights and privileges of the African race remain precisely as they were when the constitution of the United States was adopted, dependent entirely upon the local legislation and policy of the several States where they may be found. In my opinion, the policy of Illinois has been a wise and just one in regard to this race, and ought to be continued only making such changes from time to time as experience shall prove to be just and necessary. While Illinois has the undoubted right, under the constitution of the United States, to adopt and persevere in this line of policy, Virginia and each other State has a right equally clear and undeniable to pursue a line of policy on the same subject, directly the reverse of ours, and we have no more right to complain or to interfere with the local or domestic concerns of other States or Territories than they have with ours. [Applause.]

The founders of our government did not deem it possible, nor desirable, to maintain entire uniformity in the local legislation and domestic institutions of the different States and for this reason each State was allowed a separate and distinct legislation, with full power over all internal and local concerns, in order that each might shape and vary its internal policy, and adapt it to the circumstances, interests and wishes of its own people. While there was a diversity of opinion in regard to the extent of the rights and privileges which could be safely entrusted to the African race in the different States, they all repudiate the doctrine of the equality of the white and black races, and concurred in that line of policy which should preserve the purity of each, and prevent any species of amalgamation, political, social and domestic. They had witnessed the sad and melancholy results of the mixture of the races in Mexico, South America and Central America, and where the Spanish, from motives of policy, had admitted the negro

and other inferior races to citizenship, and consequently, to political and social amalgamation. The demoralization and degradation which prevailed in the Spanish and French colonies, where no distinction on account of color of race were tolerated, operated as a warning to our revolutionary fathers to preserve the purity of the white race, and to establish their political, social and domestic institutions upon a basis that would forever exclude the idea of negro citizenship and negro equality. [Applause]

They understand that the great natural law which declares that amalgamation between superior and inferior races brought their posterity down to the lower level of the inferior, but never elevates them to the high level of the superior race. I appeal to each of those gallant young men before me, who won immortal glory on the bloody fields of Mexico, in vindication of their country's rights and honor, whether their information and observation in that country does not fully sustain the truth of the proposition that amalgamation is degrading, demoralizing, producing disease and death? Is it true that the negro is our equal and our brother? The history of the times clearly show that our fathers did not regard the negro race as any kin to them, and determined so to lay the foundations of society and government that they should never be of any kin to their posterity. [Immense applause.]

But when you confer upon the African race privileges of citizenship, and put them upon an equality with white men at the polls, in the jury box, on the bench, in the executive chair, and in the councils of the nation, upon what principle will you deny their equality at the festive board and in the domestic circles.

The Supreme Court of the United States have decided that under the Constitution, a negro is not and cannot be a citizen.

The Republican or Abolition party pronounce that decision cruel, inhuman and infamous, and appeal to the American people to disregard and refuse to obey it. Let us join issue with them, and put ourselves upon the country for trial. [Cheers and applause.]

Mr. President, I will now respond to the call which has been made upon me for my opinion of the condition of things in Utah, and the appropriate remedy for the existing evils.

The Territory of Utah was organized under one of the acts known as the compromise measures of 1850, on the supposition that the inhabitants were American citizens, owning and acknowledging allegiance to the United States, and consequently entitled to the benefits of self-government while a territory, and to admission into the Union on an equal footing with the original States so soon as they should number the requisite population. It was conceded on all hands, and by all parties, that the peculiarities of their religious faith and ceremonies interposed no valid and constitutional objection to their reception into the Union, in conformity with the federal constitution, so long as they were in all other respects entitled to admission. Hence the great political parties of the country indorsed and approved the compromise measures of 1850, including the act for the organization of the Territory of Utah, with the hope and in the confidence that the inhabitants would conform to the constitution and laws, and prove themselves worthy, respectable and law-abiding citizens. If we are permitted to place credence in the rumors and reports from that country, (and it must be admitted that they have increased and strengthened and assumed consistency and plausibility by each succeeding mail,) seven years' experience has disclosed a state of facts entirely different from that which was supposed to exist when Utah was organized. These rumors and reports would seem to justify the belief that the following facts are susceptible of proof:

1st. That nine-tenths of the inhabitants are aliens by birth, who have refused to become naturalized, or to take the oath of allegiance, or to do any other act recognizing the government of the United States as the paramount authority in that Territory.

2d. That all the inhabitants, whether native or alien born known as Mormons (and they constitute the whole people of the Territory,) are bound by horrid oaths and terrible penalties to recognize and maintain the authority of Brigham Young and the government of which he is the head, as paramount to that of the United States, in civil as well as religious affairs; and that they will, in due time, and under the direction of their leaders, use all means in their power to subvert the government of the United States, and resist its authority.

3d. That the Mormon government, with Brigham Young at its head, is now forming alliances with the Indian Tribes of Utah and adjoining territories—stimulating the Indians to acts of hostility—and organizing bands of his own followers under the name of "Danites or Destroying Angels," to prosecute a system of robbery and murder upon American citizens, who support the authority of the United States, and denounce the infamous and disgusting practices and institutions of the Mormon government.

If, upon a full investigation, these representations shall prove true, they will establish the fact that the inhabitants of Utah, as a community, are outlaws and alien enemies, unfit to exercise the right of self-government under the organic act, and unworthy to be admitted into the Union as a State, when their only object in seeking admission is to interpose the sovereignty of the State, as an invincible shield to protect them in their treason and crime, debauchery and infamy. [Applause.]

Under this view of the subject, I think it is the duty of the President, as I have no doubt it is his fixed purpose, to remove Brigham Young and all his followers from office; and to fill their places with bold, able

and true men, and to cause a thorough and searching investigation into all the crimes and enormities which are alleged to be perpetrated daily in that territory, under the direction of Brigham Young and his confederates, and to use all the military force necessary to protect the officers in the discharge of their duties, and to enforce the laws of the land. [Applause.]

When the authentic evidence shall arrive, if it shall establish the facts which are believed to exist, it will become the duty of congress to apply the knife and cut out this loathsome, disgusting ulcer. [Applause.] No temporizing policy—no half-way measure will then answer. It has been supposed by those who have not thought deeply upon the subject, that an act of congress prohibiting murder, robbery, polygamy and other crimes with appropriate penalties for those offences, would afford adequate remedies for all the enormities complained of. Suppose such a law to be on the statute-book, and I believe they have a criminal code, providing the usual punishments for the entire catalogue of crimes, according to the usages of all civilized and christian countries, with the exception of polygamy, which is practiced under the sanction of the Mormon church, but is neither prohibited nor authorized by the laws of the Territory.

Suppose, I repeat, that Congress sho'd pass a law prescribing a criminal code and punishing polygamy among other offenses, what effect would it have—what good would it do? Would you call on twenty-three grand jurymen with twenty three wives each, to find a bill of indictment against a poor miserable wretch for having two wives? [Cheers and laughter.] Would you rely upon twelve petit jurors, with twelve wives each to convict the same loathsome wretch for having two wives? [Continued applause.] Would you expect a grand jury composed of twenty-three "Danites" to find a bill of indictment against a brother "Danite" for having murdered a Gentile, as they call all American citizens, under their direction? Much less would you expect a jury of twelve "destroying angels" to find another "destroying angel" guilty of the crime of murder, and cause him to be hanged for no other offense than that of taking the life of a Gentile! No. If there is any truth in the reports we receive from Utah, Congress may pass what laws it chooses, but you can never rely upon the local tribunals and juries to punish crimes committed by Mormons in that Territory. Some other and more effectual remedy must be devised and applied. In my opinion the first step should be the absolute and unconditional repeal of the organic act—blotting the territorial government out of existence—upon the ground that they are alien enemies and outlaws, denying their allegiance and defying the authority of the United States. [Immense applause.]

The Territorial government once abolished, the country would revert to its primitive condition prior to the act of 1850, "under the sole and exclusive jurisdiction of the United States," and should be placed under the operation of the act of Congress of the 30th of April, 1790, and the various acts supplemental thereto and amendatory thereof, "providing for the punishment of crimes against the United States within any fort, arsenal, dock yard, magazine or ANY OTHER PLACE OR DISTRICT OF COUNTRY, UNDER THE SOLE AND EXCLUSIVE jurisdiction of the United States." All offenses against the provisions of these acts are required by law to be tried and punished by the United States courts in the States or Territories where the offenders shall be "FIRST APPREHENDED OR BROUGHT FOR TRIAL." Thus it will be seen that under the plan proposed, Brigham Young and his confederates could be "apprehended and brought for" trial to Iowa or Missouri, California or Oregon, or to any other adjacent State or territory, where a fair trial could be had, and justice administered impartially—where the witnesses could be protected and the judgment of the court could be carried into execution, without violence or intimidation. I do not propose to introduce any new principles into our jurisprudence, nor to change the modes of proceeding or the rules of practice in our courts. I only propose to place the district of country embraced within the territory of Utah under the operation of the same laws and rules of proceeding, that Kansas, Nebraska, Minnesota and our other territories were placed before they became organized territories. The whole country embraced within those territories was under the operation of that same system of laws, and all the offenses committed within the same were punished in the manner now proposed, so long as the country remained "under the sole and exclusive jurisdiction of the United States;" but the moment the country was organized into territorial governments, with legislative, executive and judicial departments, it ceased to be under the sole and exclusive jurisdiction of the United States, within the meaning of the act of Congress, for the reason that it had passed under another and a different jurisdiction. Hence, if we abolish the territorial government of Utah, preserving all existing rights, and place the country under the sole and exclusive jurisdiction of the United States, offenders can be apprehended and brought into the adjacent States or Territories for punishment, in the same manner and under the same rules and regulations which obtained and have been uniformly practiced, under like circumstances, since 1790.

If the plan proposed shall be found an effective and adequate remedy for the evils complained of in Utah, no one, no matter what his political creed or partizan associations, need be apprehensive that it will violate any cherished theory or constitutional right in regard to the government of the Territories. It is a great mistake to suppose that all the territory or land belonging to the United States must necessarily be governed by the same laws and under the same clause of the constitution, without reference to the purpose to which it is dedicated or the use it is proposed to make of it, while all that portion of the

country which is or shall be set apart to become new States, it does not follow that other territory, not intended to be organized and admitted into the Union as States, must be governed under the same clause of the constitution, with all the rights of self government and State equality. For instance, if we should purchase Vancouver's Island from Great Britain, for the purpose of removing all the Indians from our Pacific territories and their permanent home, with guaranties that it should never be settled or occupied by white men, will it be contended that the purchase should be made and the Island is governed under the power to admit new States when it was not acquired for that purpose nor intended to be applied to that object? Being acquired for Indian purposes and applied for Indian purposes, is it not more reasonable to assume that the power to acquire was derived from the Indian clause, and the Island must necessarily be governed under and consistent with that clause of the constitution that relates to Indian affairs. Again suppose we should deem it expedient to buy a small island in the Mediterranean or in the Caribbean Sea, for a naval station, can it be said with any force or plausibility that the purchase should be made or the island governed under the power to admit new States? On the contrary, is it not obvious that the right to acquire and govern in that case is derived from the power "to provide and maintain a navy," and must be exercised consistent with that power. So if we purchase land for forts, arsenals, or other military purposes, or set apart any territory which we now own for a military reservation, it immediately passes under the military power, and must be governed in harmony with it. So if land be purchased for a mint, it must be governed under the power to coin money; or if purchased for a post office, it must be governed under the power to establish post office and post roads; or, for a custom house, under the power to regulate commerce; or, for a court house, under the judiciary power. In short, the clause of the constitution under which any land or territory belonging to the United States must be governed is indicated by the object for which it was acquired and the purpose to which it was dedicated. So long, therefore, as the organic act of Utah shall remain in force, setting apart that country for a new State, and pledging the faith of the United States to received into the Union so soon as it should have the requisite population, we are bound to extend to it all the rights of self-government, agreeable to the clause of the constitution providing for the admission of new States. Hence the necessity of repealing the organic act, withdrawing the pledge of admission, and placing it under the sole and exclusive jurisdiction of the United States, in order that persons and property may be protected and justice administered, and the crimes punished under the laws prescribed by Congress in such cases.

While the power of Congress to repeal the organic act and abolish the Territorial government cannot be denied, the question may arise whether we possess the moral right of exercising the power, after the charter has been granted, and the local government organized under its provisions. This is a grave question—one which should not be decided hastily, nor under the influence passion or prejudice.—In my opinion I am free to say there is no moral right to repeal the organic act of a territory, and to abolish the government organized under it, unless the inhabitants of the territory, as a community, have done such acts as amount to a forfeiture of all rights under it—such as becoming alien enemies, outlaws, disavowing their allegiance, or resisting the authority of the United States. These and kindred acts, which we have every reason to believe are daily perpetrated in that Territory, would not only give us the moral right, but make it our imperative duty to abolish the territorial government and place the inhabitants under the sole and exclusive jurisdiction of the United States, to the end that justice may be done, and the dignity and authority of the government vindicated.

I have thus presented plainly and frankly my views of the Utah question—the evils and remedy—upon the facts as they have reached us, and are supposed to be substantially correct. If official reports and authentic information shall change or modify these facts, I shall be ready to conform my action to the real facts as they shall be found to exist. I have no such pride of opinion as will induce me to persevere in an error one moment after my judgment is convinced. If therefore a better plan can be devised—one more consistent with justice and sound policy, or more effective as a remedy of acknowledged evils, I will take great pleasure in adopting it, in lieu of the one I have presented to you to-night.

In conclusion, permit me to present my grateful acknowledgments for your patient attention and the kind and respectful manner in which you have received my remarks.